



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 28, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby disapprove and transmit to you Senate File 2343, an Act relating to the appointment of judicial officers and senior judges, without my signature, in accordance with Article III, Section 16 of the Constitution of the State of Iowa.

I support the principles behind much of Senate File 2343 including: Section 4 that provides additional flexibility for the residency requirements for associate district court judges by requiring residency within the judicial district rather than the current requirement of county; Section 5 that provides additional flexibility in the selection of magistrates by allowing magistrates to be residents of a contiguous county; and Sections 6 through 8 that make technical changes to the senior judge program.

However, I am unable to approve Senate File 2343 for the following reasons. Section 1 of this bill creates an additional requirement on the appointment of Iowans to the district judicial nominating commissions by requiring that only one appointed commissioner may be appointed from each county unless there are fewer counties than commissioners. While I support the concept of geographic representation among the appointed members of the district judicial nominating commissions, I believe this is most appropriately applied as a criterion in choosing individuals for appointment to the commissions rather than as a statutory mandate. By placing this requirement in law, qualified individuals who wish to serve on the commissions may be excluded from service simply because there is currently a member of the commission from that county.

Sections 2 and 3 of this bill substantially alter the process for filling judicial vacancies, by allowing the Chief Justice of the Supreme Court the authority to delay the appointment of judges and associate judges for up to one year. Under Article V, Section 10 of the Constitution of the State of Iowa the responsibility for determining judicial districts and the number of judges within a judicial district is assigned to the General Assembly. I believe the Constitution has appropriately placed these responsibilities with the General Assembly which is more immediately accountable to Iowans. Section 2, shifts much of the authority

vested by the Constitution with the General Assembly to the Chief Justice by allowing the Chief Justice to delay an appointment for "budgetary reasons" with no further explanation required.

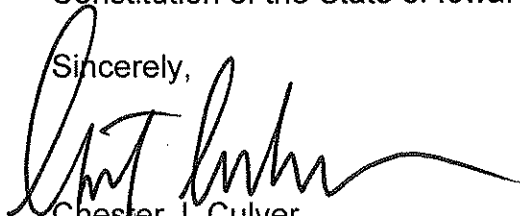
With this change, the Chief Justice could for all practical purposes determine the number of judges in each judicial district by deciding which judicial openings are filled and which are delayed. To delay judicial appointments for up to one year for "budgetary reasons" without any public accountability or additional criteria is excessively vague. Iowans expect more precise standards for determining if judicial vacancies are filled. Furthermore, allowing such discretion creates additional potential to limit Iowans access to courts and delay court proceedings. The sunset provision repealing the sections in 2013 is insufficient to alleviate my concerns about this shift in responsibilities between the branches of government.

The remaining sections of this bill advance important public policy objectives including modifying the residency restrictions for district associate judges and magistrates and modifying the requirements for senior judges. I have no objections to these sections.

I commend the Judicial Branch under the Chief Justice's leadership for continuing to provide access to the Courts to Iowans even under challenging budgetary circumstances.

For all these reasons, I hereby disapprove and transmit to you, without my signature, Senate File 2343, in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Sincerely,



Chester J. Culver
Governor

cc: Secretary of the Senate
Chief Clerk of the House

CJC: slm